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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

A.A.,

Petitioner,

v.

THE SUPERIOR COURT OF ORANGE
COUNTY,

Respondent;

ORANGE COUNTY SOCIAL SERVICES
AGENCY et al.,

Real Parties in Interest.

G054627

(Super. Ct. No. DP026827)

O P I N I O N

Original proceedings; petition for a writ of mandate to challenge an order of the Superior Court of Orange County, Gassia Apkarian, Judge. Writ denied.

Sharon Petrosino, Public Defender, Ken A. Norelli, Assistant Public Defender, Hong TL Nguyen and Dennis M. Nolan, Deputy Public Defenders for Petitioner.

Leon J. Page, County Counsel, Karen L. Christensen and Jeannie Su,
Deputy County Counsel, for Real Party in Interest.

No appearance for Respondent.

No appearance for the Minor.

* * *

A.A. (Mother) challenges the juvenile court's order regarding her son Joshua A., terminating her reunification services and scheduling a permanent placement hearing pursuant to Welfare and Institutions Code section 366.26 (hereafter permanency hearing).¹ In her writ petition, Mother argues the court erred in refusing to extend reunification services to the 18-month review date and in determining the services provided to Mother were reasonable. Finding these contentions meritless, we deny the writ petition.

FACTS

On November 3, 2015, Joshua's parents brought him to the hospital because he had a swollen leg. When x-rays revealed then five-month-old Joshua had multiple broken bones, some of which the parents could not explain, Orange County Social Services Agency (SSA) obtained a protective custody warrant to hold Joshua at the hospital. A few days later, the juvenile court detained Joshua.

The petition and amended petition alleged Joshua had a total of five bone fractures. There were recent injuries, including a spiral fracture to his left tibia and to his left ulna. There were three older posterior rib fractures believed to have occurred "on at least two different occasions" and due to their location were "indicative of abuse." The petition alleged medical personnel ruled out other possible medical causes for the fractures, such as vitamin deficiencies. The petition asserted medical personnel opined the tibia fracture was accidental but "the parents provided no plausible explanation for

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All further statutory references are to the Welfare and Institutions Code.

the other four injuries.” The petition noted the parents reported Joshua was exclusively in their care or in the care of paternal grandmother. In addition, Mother disclosed she and Joshua’s father (Father) engaged in 30 to 40 domestic violence incidents throughout their relationship. Mother and Father were both aggressors in the physical altercations, although Mother claimed their son was never present.

The parents, who are both hard of hearing, claimed Mother was watching television with her hearing aids turned off while Father was in the shower. When Father finished showering he noticed Joshua was crying and saw his left leg was partially stuck underneath the couch. Father admitted he might have pulled too hard to free his son from the couch, causing the leg (tibia) fracture. Mother and Father did not know how Joshua sustained the other injuries other than Father “plays airplane” by holding Joshua up in the air by his mid-section. In addition, Mother claimed she had “weak bones” and in her childhood she broke many bones. In a later interview, Father reported he may have caused Joshua’s ulna fracture, because he tugged on Joshua’s left arm when trying to free his foot from the couch.

A child abuse specialist stated Father provided a plausible explanation for the left ulna fracture, but he remained concerned there was abuse because Father did not offer this explanation earlier. The doctor stated posterior rib fractures are typically caused by a blow to the back or from the child being squeezed. He concluded the unexplained rib fractures were of ““exceeding[] concern.””

Mother indicated she was Joshua’s primary care provider. The parents denied having anger issues or seeing anyone harm Joshua. Joshua’s nurse in the hospital and his paternal grandmother reported Mother required additional training and assistance with infant care. The nurse saw Mother shove medication into Joshua’s mouth rather than give it to the infant slowly. Paternal grandmother stated Mother did not know how to properly change Joshua’s diaper and would feed him cow’s milk when she ran out of formula. She also once left Joshua on the side of a bed.

Mother reported she was unhappy living with Father and wanted to leave him. However, she had no money, transportation, or place to go. She did not want to take Joshua to live with her parents. Maternal grandmother had cancer and a history of physically abusing Mother when she was a child. Maternal grandfather was violent and kicked out the maternal grandmother's teeth. Mother grew up in a "rough area" of Santa Ana and she did not want Joshua to grow up there.

On November 23, 2015, the social worker provided Mother with a packet of resources and referrals and encouraged her to enroll in parenting education, individual counseling, and a child abusers treatment program. The social worker helped the parents schedule appointments for services in multiple locations and arranged for interpreters to assist them. The social worker assisted Mother after she requested one counselor in December 2015, and a different counselor in January 2016. Then in February 2016, Mother informed the social worker she would wait until counseling was court ordered. The social worker enrolled Mother in La Familia's parenting classes and child abusers treatment program.

At the beginning of the dependency proceedings, the court ordered a minimum of six hours per week of monitored visitation for both parents. In January 2016, the court ordered 10 hours of supervised visitation per week. The parents visited their son together consistently during the first few months of the case.

After Mother and Father ended their relationship in December 2015, they no longer wanted to attend visits together. In addition, Mother wanted to change the location of visits because she relied on public transportation to see Joshua. In early February 2016, the social worker held a Team Decision Making (TDM) meeting to address various visitation concerns. The participants agreed on a schedule that permitted Mother to visit three days a week. During the first week of visits, Mother was attentive and affectionate. However, she was often late and she soon asked that the hours be reduced.

On February 12, 2016, Mother vandalized Father's workplace (a tattoo shop) by spraying black ink on the walls, smashing glass, damaging work, and pouring soda over his car. Mother admitted she was out of control and that she was drunk. She loved Father and she did not know how to react when she saw he was flirting with his ex-girlfriend on Facebook. Mother revealed there had been approximately 30 to 40 prior incidents of domestic violence during her relationship with Father. The social worker referred Mother to the Personal Empowerment Program and to batterer's treatment.

Father denied any past incidents of domestic violence. He had blocked Mother from all means of communication (Instagram, Facebook, and telephone). Father believed Mother had an alcohol problem and he had encouraged her to attend a substance abuse program.

On March 3, 2016, the juvenile court sustained an amended petition pursuant to section 300, subdivisions (a) [serious physical harm], (b) [failure to protect], and (e) [severe physical abuse of child under five]. The court ordered reunification services and a case plan, including counseling, parenting classes, and a 52-week child abuser treatment program.

Joshua celebrated his first birthday in May 2016. After briefly residing with paternal grandmother, he was placed in a foster home. He was doing well developmentally and participated in age appropriate activities with his foster family.

The social worker, in her six-month review report dated August 16, 2016, recommended extending reunification services to the 12-month review. Mother was actively participating in services at La Familia and counseling. She had secured housing and transportation. Her visits with Joshua were consistent but somewhat problematic.

The social worker determined there was a high risk of harm if Joshua returned to Mother's care. Mother was "not prepared to provide Joshua full-time care, as she [was] unable to integrate the skills she's learned in her court ordered programs—as illustrated when she slapped Joshua on the hand and raised her voice after he hit another

child.” The social worker observed Mother was jealous of Joshua’s relationship with his foster mother, which was concerning because “a child Joshua’s age is not capable in engaging in behaviors to incite jealousy in others.” The social worker noted Mother grunted and ignored Joshua when she became frustrated. She held Joshua’s face to get his attention and may have left a bruise. Mother’s actions indicated she did not “comprehend what [was] developmentally appropriate behavior for a child Joshua’s age” The social worker added Mother was disorganized and unprepared for visits. “Her lack of organization and challenges managing stress, illustrates she would exhibit challenges if Joshua was placed in her care at this time.”

In her November 2016 addendum report, the social worker changed her recommendation and asked the court to terminate reunification services and set a permanency hearing. Due to several continuances, the case was now past the 12 month mark. The social worker noted Mother continued to participate in services and had made some progress. She concluded there was still risk to Joshua because Mother was “unable to utilize her parenting skills effectively, as demonstrated by being unable to comprehend that a one-year-old does not understand time-out, that meals consist[] of more than string cheese and apple sauce, and [by] relying [on staff at the visitation center] to provide support and help resolve problems.” Mother often appeared unprepared for visits, failing to bring sufficient food and diapers. The social worker concluded Mother lacked a protective capacity. “[S]he is trying to win the child back and contends that Joshua belongs to her.”

In a subsequent addendum report, the social worker reported on her conversation with Mother’s child abuser’s treatment instructor, Samuel Zavala. He recalled initially Mother was not energetic about the class and she did not want to be there. When she re-enrolled in April 2016, her attitude and level of participation was noticeably better. Zavala reported Mother’s strengths were that she had grown as a person, she was learning, and she exhibited empathy. She needed to work on her

patience and using age-appropriate discipline techniques. Zavala stated Mother knew why she was in the program and “a lot of the information [was] new to her and she did not know that if she hit, it would leave bruises.” He told the social worker it was “as though a baby [was] raising a baby.” Zavala recommended Mother work with an in-home parenting coach for additional training. He did not believe Mother was abusive to her son and she admitted in the program that there was neglect and an accident with a stroller. Mother conceded she should have watched Joshua better. Zavala also related information about maternal grandmother. He said Mother had a bad relationship with her “and gets emotional.”

In a subsequent addendum report prepared at the end of January 2017, the social worker reported Mother was unemployed and looking for work. Mother stated she was living with maternal grandmother, who planned to care for Joshua while Mother was working. Mother’s therapist reported Mother moved out of maternal grandmother’s home and the social worker did not know why there was this factual discrepancy about Mother’s residence. The social worker was concerned Mother planned to leave Joshua with a person who mistreated Mother as a child. When asked questions about this decision, Mother stated maternal grandmother had changed and was “much better.” Mother noted maternal grandmother had been “sober for five years and completed a parenting class.” Mother added “she had learned her lesson” and would not hesitate to report if something happened to Joshua.

The social worker opined Mother “exhibits a lot of strengths” but she had not shown an ability to effectively parent and care for Joshua. Mother participated in individual counseling, completed a parenting education program, and finished an in-home coaching program. Yet, her lack of insight, impulsivity, and lack of responsibility was concerning. The social worker found it telling that Mother reported she did not want to discuss how her son got hurt. The social worker noted Mother missed visits “due to being confused, because it was raining, and/or because she lost her phone.” The social

worker opined that in addition to being irresponsible and disorganized, Mother reported being overwhelmed although Joshua was not in her care and she was unemployed. In December 2016 Mother blacked out and was arrested for being drunk in public. Mother denied abusing alcohol and stated she was drinking because she missed her son and was “not coping well with it.”

In her report, the social worker noted Mother continued to make progress with her services and the nature of her visits with Joshua. Mother believed she was able to take care of Joshua and she had learned a lot from the in-home coach. The social worker remained concerned about Mother’s “protective capacity” defined as “the behavioral, cognitive, and emotional characteristics that can directly and specifically be associated with a person’s ability to provide care to and keep a child safe.” The social worker questioned if Mother had protective capacity based on her inability to place Joshua’s needs before her own. For example, Mother wanted Joshua in her custody right away but she had not progressed to unsupervised contact with him. Mother could not express how she would care for her son. In addition to examples supporting these conclusions, the social worker described events showing Mother did not understand her protective role with respect to Joshua. The social worker also gave examples of Mother’s poor impulse control and challenges with respect to self-awareness. The social worker was troubled by the fact Mother appeared unable to identify abuse or neglect, although she had participated for nearly a year in child abuser’s treatment programs, parenting classes, and individual counseling. Although these topics were discussed repeatedly, Mother stated she was not the victim of abuse, neglect, or trauma, despite previously stating her mother was abusive and admitting she experienced domestic violence with Father. Mother was unable to discuss what happened to Joshua or the reasons he was brought into protective custody. She coped with his loss by drinking to the point of blacking out. The social worker remained concerned about Joshua’s safety and

concluded permanency rather than additional reunification services would be in his best interests.

In December 2016, Father stopped participating in services and discontinued visitation. Mother did not know why he ceased participating. At the December 8, 2016 court hearing, Mother advised her attorney that she also did not want to continue with reunification services, however, she changed her mind two hours later. She later explained she was upset that Father broke up with her and she was emotional. She denied being impulsive.

Fourteen months after SSA detained Joshua, the court held the six-month hearing on January 24, 2017. The hearing lasted several days, during which the court considered six addendum reports, Mother's testimony, and the social worker's testimony. During a break in the proceedings, SSA filed a seventh addendum report. The social worker reported on a meeting she had with Mother the day before the hearing. Mother denied she was the victim of abuse, neglect, or trauma as a child. However, when asked if maternal grandmother abused her, Mother acknowledged she was abused and she had a terrible childhood. Mother indicated she was trying to move past her history. Mother also indicated Joshua was not a victim of abuse, trauma, or neglect and she believed he should not have been removed from her custody. Mother said she was not ready to discuss what had happened to Joshua. Mother maintained she was a good mother and her actions, whether good or bad, would not impact her son.

The social worker reported Mother claimed she was prepared to care for Joshua because she had housing (with maternal grandmother) and other necessary supplies. Mother fondly and lovingly discussed her son and reported Joshua called her "mama." She admitted feeling jealous that Joshua also was affectionate towards maternal grandmother.

Mother was unable to describe what happened during her arrest and black out, but recalled the officer said she was "out of control." Mother stated she did not

need anger management counseling because she had gotten better. She would never intentionally hurt Joshua, and she never harmed him. Mother said she would be willing to continue with individual counseling and whatever else was necessary to get her son back.

In addition, the social worker further discussed in her addendum report Mother's protective capacity. The social worker cut and pasted her prior discussion of this topic from the November 2016 addendum report. She added Mother missed two visits in November 2016, three visits in December 2016, and one visit in January 2017. Mother also missed Joshua's audiology appointment. The social worker was concerned about Mother's protective capacity due to her recent decision to reside with maternal grandmother, the incidents of poor impulse control (her arrest and snap decision to stop reunification services), and her inability to discuss the reasons why Joshua was brought into protective custody.

When the six-month hearing resumed on January 31, 2017, the court considered the most recent report and additional testimony from the social worker. The following day, Mother's counsel asked Zavala to testify. The court continued the hearing to February 9, 2017.

The social worker filed two addendum reports on the day of the hearing. Mother missed two visits the social worker had specially arranged because Mother missed 10 hours of visitation due to her presence in court. The social worker also summarized all the services offered to Mother over the course of this dependency action.

At the hearing, the court considered closing arguments and continued the "six-month" review hearing to February 14, 2017. The case was now over 15 months old. In the social worker's 10th addendum report, she reported Mother visited with Joshua to make up hours she missed due to her court appearances. The social worker reviewed the Children and Family Services Pre-Test and Post-Test provided by the Orange County Child Abuse Prevention Agency's representative Claudia Vazquez. It

showed Mother made improvements “implementing positive parenting, demonstrating knowledge on how to teach [Joshua], and implementing positive discipline techniques.” Mother cooperated and participated in all home visits and implemented time-outs. She encouraged Joshua to communicate with her using sign language. Vasquez did not recommend ongoing services, noting Mother successfully completed the program.

The social worker recommended the court terminate reunification services and schedule a permanency hearing. She recognized the previous court reports and Vasquez’s report show Mother possesses several strengths. “However, there remain concerns regarding [Mother] and her ability to provide on-going care for the child and adequately protect him.” For example, Mother was unable to articulate how she would protect Joshua and she received low “Post-Test” scores in the categories of anger management and financial stability. The social worker stated Mother self-reported she can manage her family’s financial needs and she had more self-control. “[If Mother] is reporting contradictory things to various parties, how can we accurately assess her readiness to take care of the child?”

At the continued hearing date, February 14, 2017, the court made its ruling. It terminated services, determined SSA offered Mother reasonable services, and scheduled a permanency hearing. The court stated on the record the following: “I have no doubt you have strong feelings about your child, loving your child, and wanting to be a parent to your child. And I believe initially you were doing well in the first six months. But the standard at the 12-month period is slightly different. [¶] [M]y finding [was] going to be, at the six-month[] that I would give you an additional six months. [¶] However, at 12 months, I’m going to make the finding that we are not going to go to 18 months, and I will explain to you why. And this has nothing to do, frankly, with the testimony of the social worker or . . . Zavala. It was, in fact, based on your testimony that this court is going to make the finding that there is no substantial probability that the child will be returned to you within six months.”

The court gave several examples. It recalled that when Mother was asked if she missed any visits in the past few months, her response was “‘I’m not sure.’” The court noted a parent must be responsible for her child “at all hours of the day and night” and Mother would be expected “to know if you have visited or not visited your child.” The court also referred to Mother’s testimony she was unsure if the therapy sessions were helpful. It noted Mother had another 12 weeks of therapy scheduled and further therapy was being recommended. The court found troubling Mother’s announcement in December that she wanted to quit and stop reunification services because of a break up with Father. “As a parent, that’s not a choice. You can’t quit being a parent. Which goes to show to this court, perhaps you’re not prepared to take on the full-time responsibility of a human being. . . . Regardless of what happens between a parent and anybody else, a parent can never stop being a parent.”

The court expressed concern Mother admitted she was abused as a child and yet planned to leave Joshua with a known abuser. The court noted Mother stated maternal grandmother was improving and was a good grandmother. On the other hand, the court recounted, “[T]hese are your words -- ‘I think my mom would abuse my child, too, if I left her alone with the baby to babysit.’” The court concluded, “That goes to show . . . that you don’t have a plan that’s safe for this child. Knowing that you’ve been abused by your mother, knowing that your mother would abuse this baby, you stated to this court, ‘my plan is to have my mom watch my son, but my mom was abusive with me.’” The court said Mother also led the court to believe she was living with maternal grandmother to help her out financially. “When we become a parent, it is black and white when it comes to choices with regards to taking care of our child. To think that your mother might be abusive to your child and yet to tell the court that your care plan is to allow your mother to babysit leads this court to believe that you are not, in fact ready; unprepared, and perhaps lack the experience and maturity that is required to raise a human being. Love, alone, is not enough to raise a child.”

The court stated its decision was also based on evidence Mother was arrested and “perhaps used ill-thought discipline measures.” It recognized these factors did not mean Mother could not eventually become a good parent. However, the evidence also demonstrated a lack of significant progress. The court stated that due to Joshua’s young age “we just don’t have the convenience of time.” The court did not believe an additional six months would be enough time. It commented to Mother, “Because you, yourself, admitted, and I received information, that perhaps it has to do with lack of formal education [and/or] lack of an adult to model after. It could be things that have been so intrinsic to your life growing up. I don’t know if it can be fixed or not.” For all the above stated reasons, the court determined the child could not be returned to Mother, and it terminated reunification services.

DISCUSSION

I. Sufficiency of the Evidence

Mother maintains the court erred by not continuing her reunification services to the 18-month date. Mother argues she made significant progress in resolving the problems that led to Joshua’s removal, maintained consistent contact, showed an ability to complete the case plan objectives, and proved she could care for her son. We find no error.

An order terminating reunification services is reviewed for substantial evidence. (*Fabian L. v. Superior Court* (2013) 214 Cal.App.4th 1018, 1028.) A reviewing court must uphold a juvenile court’s findings and orders if they are supported by substantial evidence. (*In re Amos L.* (1981) 124 Cal.App.3d 1031, 1036-1037.) “[W]e must indulge in all reasonable inferences to support the findings of the juvenile court [citation], and we must also ‘. . . view the record in the light most favorable to the orders of the juvenile court.’” (*In re Luwanna S.* (1973) 31 Cal.App.3d 112, 114.)

Pursuant to section 366.21, subdivision (g)(1), a court may continue a case to a date 18 months after the child was originally taken into protective custody only if

there is a substantial probability the child will be returned to the parent's physical custody and safely maintained in the home by that time. In considering whether to extend the case to the 18-month date, the court must make all of the following three findings: "(A) That the parent . . . has consistently and regularly contacted and visited with the child. [¶] (B) That the parent . . . has made significant progress in resolving problems that led to the child's removal from the home. [¶] (C) The parent . . . has demonstrated the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs." (*Ibid.*)

Mother did not show how she met all three prongs. She acknowledges the evidence was mixed with respect to the first prong. Simply stated, Mother visited regularly, but she occasionally missed visits. Although the court did not base its ruling on the lack of consistent visitation, Mother provides this court with mathematical calculations in an attempt to minimize the impact of missed visits. For example, she calculates that between March 2016 and July 2016, she attended visits at a 90 percent rate. From August 2016 to the hearing date in February 2017, her attendance dropped to an 81 percent rate. She argues, however, that the overall rate of visitation was approximately 86 percent (16 missed visits out of 103 opportunities). She suggests that since 86 percent represents a passing grade, the court could conclude visitation was sufficiently regular and consistent. In our experience, dependency law and policies do not lend themselves to cold mathematical formulas. A mother who earns an "A" grade by reliably attending monitored visits just two hours a week may be less equipped to care for and protect her child than a parent having unmonitored but more lengthy visits at a 70 percent rate.

In 15 months, Mother's visitation never progressed to unmonitored visits. At one point, she asked for a reduction in time. Given that a toddler is generally dependent on his caregivers around the clock, Mother's absence for 10 hours would be

significant from his perspective. She offers no authority to support her theory that visiting 81 to 86 percent of the time sufficiently “passes” the requirement of consistent and regular contact within the meaning of section 366.21, subdivision (g)(1). We conclude the court’s evaluation of this first factor must be framed in the context of the child’s best interests, not by applying rigid formulas or bright line tests.

In any event, Mother did not show she met the second and third requirements. Mother points to portions of the record praising her for making progress in her case plan and with her parenting skills. She notes the social worker acknowledged her parenting during visits improved significantly. Mother stated there was evidence she engaged more with Joshua, they were affectionate, and she became consistent with diaper changes and hand washing before meals. As noted by SSA, this argument “cherry-picks” the best evidence in Mother’s favor and ignores the many concerns raised by the social worker and the court’s stated reasons for its order. As an appellate court, in the presence of substantial evidence, we do not reweigh conflicting evidence and alter a dependency court’s determination. (*Constance K. v. Superior Court* (1998) 61 Cal.App.4th 689, 705.)

There was substantial evidence to support the court’s determination. The court reasonably focused on Mother’s testimony. As discussed in more detail in our factual summary, Mother made several comments that convinced the court there remained serious concerns about Mother’s maturity, parenting skills, and ability to protect Joshua from harm. Mother does not challenge the reasonableness or wisdom of the court’s deductions. We conclude the court’s reasoning was logical and rational. Moreover, the record amply supported the continuation of monitored visits in the future. There was certainly no substantial probability of Joshua’s return to Mother’s physical custody within the remaining three months of services (until the 18-month review date).

II. Services Provided

“‘The paramount goal in the initial phase of dependency proceedings is family reunification. [Citation.]’ [Citation.] . . . Reunification services must be

‘designed to eliminate those conditions that led to the court’s finding that the child is a person described by [s]ection 300.’ (§ 362, subd. (c).) Accordingly, a reunification plan must be appropriately based on the particular family’s ‘unique facts.’ [Citation.] . . . [¶] [SSA] ‘must make a good faith effort to develop and implement a family reunification plan. [Citation.] “[T]he record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the parents during the course of the service plan, and made reasonable efforts to assist the parents in areas where compliance proved difficult” [Citation.]’ [Citation.] ‘The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.’ [Citation.] ‘The applicable standard of review is sufficiency of the evidence. [Citation.]’ [Citation.]” (*In re T.G.* (2010) 188 Cal.App.4th 687, 696-697.)

The trial court determined the services provided were exceptional. Mother’s reunification services included, among other things, individual counseling, a parenting class, an in-home coaching program, and a child abusers treatment program. Mother was provided with an interpreter during all her classes and therapy as well as for appointments with her assigned social worker and an audiology appointment for the child. The social worker regularly communicated with Mother and her service providers regarding her progress. We conclude all of these services were appropriately based on Mother’s unique case, satisfying the goals of dependency proceedings.

Mother’s complaint on appeal focuses on just one facet of her case plan. She contends that for a majority of the service period, the parenting and child abuser treatment instructor, Zavala, did not understand the true nature of her case. At the hearing, Zavala admitted he was unaware the case involved physical abuse because Mother led him to believe the case concerned only neglect. SSA and Mother did not provide Zavala with a copy of the case plan or the police report. We are not convinced

this evidence is sufficient to overturn the trial court's determination Mother received reasonable services and Mother should receive an additional six months of services. (*In re Mark L.* (2001) 94 Cal.App.4th 573, 585.)

We begin our analysis by briefly summarizing Zavala's testimony. Zavala stated Mother had 10 more weeks to complete the La Familia parenting class and child abusers treatment program. He assessed her progress in several areas, including accountability (accepting responsibility), learning skills, participation, attitude, field development and motivation. On a scale of 0 to 7, Zavala initially rated Mother's progress a 5. After learning Mother was not being up front about the nature of Joshua's injuries, Zavala said he would lower her accountability score.

Zavala explained Mother led him to believe Joshua was injured due to neglect. Mother said she left Joshua in an elevated cradle-like device while she was in another room, and when she returned, he was on the floor. Mother never acknowledged Joshua had unexplained, non-accidental injuries to his ribs. Consequently, Zavala initially rated her progress in accepting responsibility for neglect, not physical abuse.

Zavala stated he did not receive a copy of Mother's plan or a copy of the police report that would have revealed the particulars of the case. Despite having Mother in his class for over a year, and engaging in multiple conversations with Mother's social worker, Zavala was unaware the case involved unexplained physical injuries until a few months before the hearing. Zavala recalled that in class, when the topic of neglect was raised, Mother would cry but would not talk about what happened to Joshua. Zavala added he was supposed to receive a case plan from his clients or the social workers, but this "regularly" did not occur. He conceded receiving the case plan would have been helpful for him to gauge Mother's progress. When asked if he would have addressed the issue of physical abuse with Mother during class, he replied, "yes."

Based on this testimony, Mother concludes Zavala "recognized" she would have been "better served" if he knew Joshua suffered from physical abuse. She

concludes, “Given Zavala’s earlier positive assessment of [Mother’s] progress when the case was believed to concern only neglect, it seems likely [M]other could have achieved greater progress had the bar been properly set. Even if it could be said that the likelihood of reunification may be low, [Mother] was nonetheless entitled to reasonable services.” We conclude the record simply does not support these theories.

Zavala never said he could have “better served” Mother. Mother does not identify what Zavala could have done differently and we will not speculate as to how the child abusers treatment program would have changed. Zavala explained the program involved a group class of 10 clients participating in a pre-set lesson plan. He said one week the group might discuss bullying and the next week physical abuse. Clients were encouraged to participate and share stories. This group setting afforded less individual attention than other services Mother received, such as in-home coaching and individual counseling sessions.

In addition, Zavala never said he differentiated between negligent and physically abusive parents in the program. And there is no evidence to support Mother’s theory the program set a lower bar for negligent parents to meet. More importantly, Mother overlooks the evidence she did successfully graduate from the program at the time of the hearing. She waited until April 2016 to begin actively participating in the program. After several months (by November 2016), Zavala reported that teaching Mother was like dealing with a child, and she did not know hitting would leave bruises. In December 2016, Zavala reported Mother’s critical thinking was immature and all the information was new to her. The following month, January 2017, Zavala reported Mother presented a “tough case” due to her hearing disability. He noted Mother had not been truthful about why she was in the program and it was “up to her to take responsibility and use the tools provided to her.” He said all the other participants except Mother were “up front about why” they were in the program. He stated Mother would

earn a certificate of attendance but was still a “work in progress.” He recommended additional classes.

Although SSA should have provided a copy of her case plan or the police report to Zavala, we find no reason to hold SSA’s decision to refer Mother to the child abusers treatment program was evidence Mother received unreasonable services. The social worker and Zavala rationally expected Mother would be candid and truthful about why she had been referred to the program. Zavala held group classes on topics presumably relevant to all kinds of child abusers. Mother understood she was offered the “child abusers treatment program” as part of a larger package of services to address the primary reason Joshua was removed from her care, i.e., he sustained three rib fractures due to physical abuse. SSA also referred Mother to individual counseling and parenting classes, intended to address the issue of Joshua’s physical abuse. Despite long-term exposure to many different types of services throughout these proceedings, Mother has remained steadfastly silent about the circumstances of Joshua’s rib fractures. Having refused to acknowledge there was physical abuse, Mother had no plan for preventing future harm. Her resistance to discuss what happened to Joshua and seek treatment for those issues was her failing, not the fault of one particular program.

III. Visitation

Mother maintains SSA was unreasonable in refusing to increase Mother’s visits and remove the monitor. She notes her visits with Joshua improved after November 2016. Mother argues one alleged inappropriate disciplinary action (a time-out) and her arrest were not reasons to keep visits to 10 hours a week and monitored. She concludes there was no evidence she came intoxicated to any visits, meetings, or court appearances. True, but her argument ignores all the evidence indicating she was not ready for additional hours or unmonitored visits at the end of 2016.

For example, Mother missed several visits in November and December 2016. Her excuse was that she felt overwhelmed. During this same time period, Mother

was unemployed and she lost control by excessively drinking alcohol to the extreme point of blacking out. Mother, feeling emotional and upset about breaking up with Father, also told her counsel she wanted to give up on reunification services. Sometime after November 2016, Mother decided it would be a good idea to reside with and rely on maternal grandmother to help her with Joshua, despite knowing her mother had a history of being abusive. At Christmastime, Mother asked the social worker to allow a friend to supervise a lengthy visit, but the friend never responded to the social worker's efforts to contact her to make arrangements. None of these events inspired confidence in Mother's ability to care for and protect Joshua during a lengthy unmonitored visit. There needed to be more improvement in parenting skills, impulse control, and accountability before giving Mother unsupervised time with her one-year-old. We find no error in SSA's decision with respect to the visitation schedule after November 2016.

DISPOSITION

The petition for extraordinary writ and the request for a stay are denied.

O'LEARY, P. J.

WE CONCUR:

MOORE, J.

ARONSON, J.